

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

In re: David Allen Ashley	)	Case Number: 20-10343
Damaira Ashley	)	Chapter 13 Proceedings
Debtors	)	Judge Jessica E. Price Smith

**TRUSTEE'S MOTION TO MODIFY DEBTORS' CONFIRMED PLAN**

Now comes **LAUREN A. HELBLING**, the duly appointed, qualified, and standing Chapter 13 Trustee ("Trustee") herein, and hereby moves this Honorable Court to modify the Debtors' confirmed Chapter 13 Plan ("plan") pursuant to Section 1329 of the Bankruptcy Code. In support of this motion, the Trustee makes the following representations to the Court:

1. Debtors filed a petition under Chapter 13 of Title 11, U.S.C. on January 20, 2020. Debtors' plan was confirmed on April 22, 2020. The current plan payment is \$400.00 per month, with the unsecured creditors receiving \$4,124.41 or an 8% dividend, whichever is greater. Unsecured creditors filed allowed claims totaling \$41,724.79.

2. At the time this case was confirmed, Debtors listed income from wages and that totaled \$57,244.00 annually. A review of Debtors' 2020 tax return and W-2 statements shows that their annual gross income from wages has increased to \$65,367.00. After taking into consideration additional payroll taxes and cost of living increases it appears that Debtors can now afford to increase the plan payment by \$400.00 per month. When this amount is added to the current plan payment, the new plan payment would be \$1,000.00 per month.

3. Section 1329(a)(1) of the Bankruptcy Code provides that the plan may be modified at any time after confirmation (but before completion of payments under the plan) in order to increase the amount to be paid to unsecured creditors. Section 1322 (a)(1) of the Code requires that the plan shall provide for the submission of all or such portion of future earnings or other income of the debtor to the supervision and control of the trustee as is necessary for the execution of plan. Section 1325(a) of the Code requires that such a modification be offered in "good faith". Based on the information provided herein, it would be appropriate to modify Debtors' plan to increase the plan payment to \$1,000.00 per month and to increase the payment to unsecured creditors to \$7,927.70 or 19% whichever is greater.

4. Debtors are "below-median income" debtors, and the applicable commitment period is 36 months. Once the monthly plan payment is increased to \$1,000.00, the plan would complete in less than 36 months. Therefore, Trustee is requesting that the payment to unsecured creditors is increased to \$7,927.70 or 19% whichever is greater.

**WHEREFORE** your Trustee, being a proper party in interest, hereby moves this Honorable Court to enter an order modifying Debtors' plan in accordance with the recommendations listed in this motion and for the reasons cited.

/S/ Lauren A. Helbling

---

LAUREN A. HELBLING (#0038934)

Chapter 13 Trustee

200 Public Square, Suite 3860

Cleveland OH 44114-2321

Phone (216) 621-4268 Fax (216) 621-4806

[Ch13trustee@ch13cleve.com](mailto:Ch13trustee@ch13cleve.com)

### **CERTIFICATE OF SERVICE**

I certify that on September 23, 2021, a true and correct copy of the Trustee's Motion to Modify Debtors' Confirmed Plan was served:

Via the Court's Electronic Case Filing System on these entities and individuals who are listed on the Court's Electronic Mail Notice List:

William J. Balena, Esq. on behalf of the Debtors at [docket@ohbksource.com](mailto:docket@ohbksource.com)

And by regular U.S. mail, postage prepaid, on:

David Allen and Damaira Ashley, Debtors, 172 Brace Ave., Elyria, OH 44035

Creditors – see attached list.

/S/ Lauren A. Helbling

---

LAUREN A. HELBLING (#0038934)

Chapter 13 Trustee

200 Public Square, Suite 3860

Cleveland OH 44114-2321

Phone (216) 621-4268 Fax (216) 621-4806

[ch13trustee@ch13cleve.com](mailto:ch13trustee@ch13cleve.com)

WILLIAM J BALENA  
31369 SAINT ANDREWS  
WESTLAKE, OH 44145

AMERICREDIT FINANCIAL SERVICES  
DBA GM FINANCIAL  
P O BOX 183853  
ARLINGTON, TX 76096

FIRST INVESTORS FINANCIAL SERVICING  
380 INTERSTATE N PKWY #300  
ATLANTA, GA 30339

PORTFOLIO RECOVERY ASSOCIATES LLC  
P O BOX 12914  
NORFOLK, VA 23541

SCOLOPAX LLC  
c/o WEINSTEIN & RILEY PS  
P O BOX 3978  
SEATTLE, WA 98124-3978

QUANTUM3 GROUP LLC  
P O BOX 788  
KIRKLAND, WA 98083-0788

MIDLAND FUNDING LLC  
c/o MIDLAND CREDIT MGMT INC  
P O BOX 2011  
WARREN, MI 48090

PREMIER BANKCARD LLC  
c/o JEFFERSON CAPITAL SYSTEMS  
P O BOX 772813  
CHICAGO, IL 60677-2813

CAPITAL ONE  
c/o BECKETT & LEE LLP  
P O BOX 3001  
MALVERN, PA 19355-0701

LVNV FUNDING LLC  
c/o RESURGENT CAPITAL SERVICES  
P O BOX 10587  
GREENVILLE, SC 29603-0587

MONTGOMERY WARD  
c/o CREDITORS BANKRUPTCY SERVICE  
P O BOX 800849  
DALLAS, TX 75380

WISCONSIN CHEESEMAN  
c/o CREDITORS BANKRUPTCY SERVICE  
P O BOX 800849  
DALLAS, TX 75380

WINDSTREAM  
ATTN FINANCIAL SERVICES  
1720 GALLERIA BLVD  
CHARLOTTE, NC 28270

SYNCHRONY BANK  
c/o PRA RECEIVABLES MANAGEMENT LLC  
P O BOX 41021  
NORFOLK, VA 23541

CREDIT ACCEPTANCE CORP  
25505 W 12 MILE RD #3000  
SOUTHFIELD, MI 48034

PORTFOLIO RECOVERY ASSOCIATES  
P O BOX 41067  
NORFOLK, VA 23541-1067

STONEBERRY  
c/o CREDITORS BANKRUPTCY SERVICE  
P O BOX 800849  
DALLAS, TX 75380

MASON  
c/o CREDITORS BANKRUPTCY SERVICE  
P O BOX 800849  
DALLAS, TX 75380

THE SWISS COLONY  
c/o CREDITORS BANKRUPTCY SERVICE  
P O BOX 800849  
DALLAS, TX 75380

PREMIER BANKCARD LLC  
c/o JEFFERSON CAPITAL SYSTEMS  
P O BOX 7999  
SAINT CLOUD, MN 56302-9617

SCOLOPAX LLC  
c/o WEINSTEIN & RILEY PS  
2001 WESTERN AVE #400  
SEATTLE, WA 98121